

**MAYOR AND CITY COUNCIL OF BALTIMORE  
MINORITY AND WOMEN'S BUSINESS PROGRAM  
BALTIMORE CITY CODE, ARTICLE 5, SUBTITLE 28**

**BIDDER INFORMATION AND FORMS**

CONTRACTING AGENCY: \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_

CONTRACT TITLE: \_\_\_\_\_

\_\_\_\_\_  
Pursuant to Article 5, Subtitle 28 of the Baltimore City Code (2000 Edition) – Minority and Women's Business Program, Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) participation goals apply to this contract.

The MBE goal is \_\_\_\_\_%

The WBE goal is \_\_\_\_\_%

**Bid Requirements**

Bid must include a commitment to utilize MBEs and WBEs at a percentage that equals or exceeds the contract goals stated above. Bidder must submit the following completed documents **WITH THE BID**:

- (1) MBE and WBE Participation Disclosure Forms
- (2) Statement of Intent Form(s) signed by both Bidder and MBE or WBE
- (3) MBE/WBE Participation Affidavit

Any bid that does not include the MBE/WBE Participation Disclosure Form, signed Statement of Intent Form(s) and MBE and WBE Participation Affidavit is non-responsive and will be rejected.

Bidder must keep a record of bidder's efforts to obtain MBE and WBE participation.

**Verifying Certification**

Each bidder is responsible for verifying that all MBEs and WBEs to be used on a contract are certified by the Minority and Women's Business Opportunity Office (MWBOO) before bid opening. A directory of certified MBEs and WBEs is available from MWBOO. Since changes to the Directory occur daily, the bidder should call MWBOO at 410-396-4355 to verify certification, expiration dates, and services that the MBE or WBE is certified to provide.

Rev.11/02

### Contract Requirements

During the term of the contract, any unjustified failure to comply with the MBE and WBE participation requirements is a material breach of contract.

Before final payment may be made under the contract, the contractor must submit the Subcontractor Utilization Form with its final payment request. The Subcontractor Utilization Form will include a list of the names of all subcontractors utilized on the contract, both MBE/WBE and non-MBE/WBE, the total amount paid to each subcontractor, and the owner's race/ethnicity and sex.

### **Substitution of MBE or WBE**

**The Minority and Women's Business Opportunity Office must approve substitution of an MBE or WBE specified at bid opening. Any unjustified failure to comply with this requirement is a material breach of contract.**

### Waiver Requests

If a bidder is unable to comply with a contract goal, the bidder may submit a waiver request with the bid. The waiver request must be made on the MBE/WBE Participation Waiver Request Form. No waiver will be granted unless the waiver request includes documentation that demonstrates a good faith effort to comply with the goals.

### **MBE and WBE Participation Standards**

#### Participation of M/WBEs

The total dollar value of a contract with a company certified as both MBE and WBE (M/WBE) may be counted toward either the MBE goal or the WBE goal, but not to both. The bidder must choose the goal to which the contract value is applied.

#### Non-affiliation

A bidder may not use an MBE or WBE to meet a contract goal if:

1. the bidder has a financial interest in the MBE or WBE
2. the bidder has an interest in the ownership or control of the MBE or WBE
3. the bidder is significantly involved in the operation of the MBE or WBE

(Art. 5, §28-41)

A bidder that is an MBE or WBE may NOT use itself to meet a contract goal.

#### Commercially Useful Function

The bidder may count toward the contract goals only expenditures to MBEs and WBEs that perform a commercially useful function in the execution of the contract.

Commercially useful function means the performance of real and distinct work for which the business enterprise has the skill, expertise, and actual responsibility to perform, manage and supervise. (Art.5, §28-32).

#### Subcontracting by MBE or WBE

A bidder may not count toward its contract goal any agreement with a certified MBE or WBE subcontractor who intends to subcontract more than 10% of the dollar amount of the services to be performed under its agreement with the bidder. This restriction does not apply to an MBE's or WBE's contracts for the purchase of materials, equipment, or supplies as an incident to the performance of services under its agreement with the bidder. (Art. 5, §28-34)

#### Manufacturers

A bidder may count toward the contract goal its entire expenditure to a certified MBE or WBE manufacturer. (Art. 5, §28-36)

#### Suppliers

Manufacturers - A bidder may count toward the contract goal 100% of its expenditure to a certified MBE or WBE supplier who manufactures the goods supplied.

Non-Manufacturers - A bidder may count 100% of its expenditure to a certified MBE or WBE supplier who is a wholesaler warehousing the goods supplied; or who is a manufacturer's representative. However, only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (Art. 5, §28-37)

#### Joint Ventures

A bidder may count toward the contract goal the portion of its expenditure to a joint venture that is equal to the percentage of the MBE or WBE participation in the joint venture. The MBE or WBE member of the joint venture must have an interest in the control, management, and operation of the joint venture commensurate with the member's percentage of ownership. The MBE or WBE that is a member of the joint venture must be responsible for a clearly defined portion of the work to be performed, equal to its share in the ownership, control, and management of the joint venture. (Art. 5, §28-33)

#### Insurance companies and travel agents

A bidder may count toward the contract goals only 15% of its expenditure to a MBE or WBE insurance company or travel agent. (Art. 5, §28)

#### Financial institutions

A bidder may count toward the contract goals only the fees charged and earned by an MBE or WBE financial institution. (Art. 5, §28)

If you would like to receive a copy of Article 5, Subtitle 28 of the Baltimore City Code (2000 Edition) please call MWBOO at 410-396-4355.

**MAYOR AND CITY COUNCIL OF BALTIMORE  
MINORITY AND WOMEN'S BUSINESS OPPORTUNITY OFFICE**

<b>MBE AND WBE PARTICIPATION REQUIRED FORMS</b>
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Name of Bidder (Proposer) \_\_\_\_\_

Address \_\_\_\_\_

Contracting Agency \_\_\_\_\_

Contract (Project) Title \_\_\_\_\_

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Contract Number: \_\_\_\_\_

Bid Due Date: \_\_\_\_\_

Goals: MBE: \_\_\_\_\_%    WBE: \_\_\_\_\_%

**THIS PACKAGE OF MBE AND WBE PARTICIPATION FORMS IS DUE WITH  
THE BID.**

FOR MORE INFORMATION OR ASSISTANCE WITH THESE FORMS, CONTACT:

Minority and Women's Business Opportunity Office (MWBOO)  
Baltimore City Department of Law  
Room 101 City Hall

100 N. Holliday Street  
Baltimore, Maryland 21202  
410-396-4355

<b>PART A: INSTRUCTIONS</b>
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The requirements of the Article 5, Subtitle 28 of the Baltimore City Code (2000 Edition), are a part of this contract and are incorporated by reference. **FAILURE OF ANY BIDDER, CONTRACTOR OR SUBCONTRACTOR TO COMPLY WITH ARTICLE 5, SUBTITLE 28 SHALL BE A MATERIAL BREACH OF CONTRACT.**

The following are included:

Part A: Instructions

Part B: MBE and WBE Participation Disclosure Form

Part C: Statement of Intent Form - A Statement of Intent Form shall be completely executed for each and every MBE and WBE named in Part B.

Part D: MBE/WBE Participation Affidavit - to be completed by Bidder.

Part E: MBE/WBE Participation Waiver Request Form. If you are unable to meet the MBE and WBE participation goals for this contract, the law requires you to submit a waiver request with the bid.

Part F: Subcontractor Utilization Form

**ALL FORMS ARE DUE WITH BID.**

For any Contract not competitively bid and awarded by the Board of Estimates, this form is due before the Board of Estimates approves the Contract or Agreement.

**PART B: MBE PARTICIPATION DISCLOSURE FORM**

Use this form to list MINORITY Business Enterprises that you will use to meet the MBE Participation Goal. Please be reminded that:

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of **each** contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and MBE goal is 15% or \$15,000; then participation limit for MBE suppliers that are non-manufacturers is \$3,750 or 25% of the 15% MBE goal.)

Prime Contractor’s Name: \_\_\_\_\_

Prime Contractor’s Address: \_\_\_\_\_

Contract Number & Title: \_\_\_\_\_

**MBE SUBCONTRACTORS**

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
_____				
_____				
_____				
_____				
_____				

**TOTAL DOLLAR AMOUNT OF CONTRACT** \$ \_\_\_\_\_

**TOTAL DOLLAR AMOUNT OF MBE SUBCONTRACTS** \$ \_\_\_\_\_

**TOTAL MBE PERCENTAGE OF ENTIRE CONTRACT** \_\_\_\_\_ %

**Form Prepared by:**

\_\_\_\_\_  
Name and Title Phone # Date

**PART B: WBE PARTICIPATION DISCLOSURE FORM**

**Use this form to list WOMEN'S Business Enterprises that you will use to meet the WBE Participation Goal. Please be reminded that:**

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of **each** contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and WBE goal is 6% or \$6,000; then participation limit for WBE suppliers that are non-manufacturers is \$1,500 or 25% of the 6% WBE goal.)

Prime Contractor's Name: \_\_\_\_\_

Prime Contractor's Address: \_\_\_\_\_

Contract Number & Title: \_\_\_\_\_

**WBE SUBCONTRACTORS**

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
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**TOTAL DOLLAR AMOUNT OF CONTRACT** \$ \_\_\_\_\_

**TOTAL DOLLAR AMOUNT OF WBE SUBCONTRACTS** \$ \_\_\_\_\_

**TOTAL WBE PERCENTAGE OF ENTIRE CONTRACT** \_\_\_\_\_ %

**Form Prepared by:**

Name and Title	Phone #	Date
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**PART C: MBE/WBE AND PRIME CONTRACTOR'S  
STATEMENT OF INTENT**

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE  
NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.

**Contract Name and Number:** \_\_\_\_\_

**Name of Prime Contractor:** \_\_\_\_\_

**Name of MBE or WBE:** \_\_\_\_\_

**MBE or WBE Certification Number:** \_\_\_\_\_

**Work/Service to be performed by MBE or WBE:**

**Materials/Supplies to be furnished by MBE or WBE:**

**Subcontract Amount:** \$\_\_\_\_\_ (If this is a requirements  
contract, the subcontract dollar amount may be omitted.)

**Subcontract percentage of total contract:** \_\_\_\_\_%

The undersigned Prime Contractor and subcontractor agree to enter into a contract for the work/service indicated above for the dollar amount or percentage indicated, subject to the prime contractor's execution of a contract with the City of Baltimore for the above referenced contract number. The undersigned subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office.



\_\_\_\_\_  
Signature of Prime Contractor **(REQUIRED)**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of MBE or WBE **(REQUIRED)**

\_\_\_\_\_  
Date

<b>PART D: MBE/WBE PARTICIPATION AFFIDAVIT</b>
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The Undersigned authorized representative of Contractor does hereby make the following Affidavit:

Contractor acknowledges the MBE goal of \_\_\_\_\_% and the WBE goal of \_\_\_\_\_%

for Contract No./Title \_\_\_\_\_  
with the City of Baltimore.

My firm will make good faith efforts to achieve the MBE and WBE participation goals for this contract. I understand that, if awarded the contract, my firm must submit to the Minority and Women's Business Opportunity Office (MWBOO) copies of all executed agreements with the MBE and WBE firms being utilized to achieve the participation goals and other requirements of Article 5, Subtitle 28 of the Baltimore City Code (2000 Edition). I understand that these documents must be submitted prior to the issuance of a notice to proceed.

I understand that, if awarded the contract, my firm must submit to the MWBOO canceled checks and any other documentation and reports required by MWBOO on a quarterly basis, verifying payments to the MBE and WBE firms utilized on the contract.

I understand that, if I am awarded this contract and I find that I am unable to utilize the MBEs or WBEs identified in my Statements of Intent, I must substitute other certified MBE and WBE firms to meet the participation goals. I understand that I may not make a substitution until I have obtained the written approval of MWBOO.

I understand that, if awarded this contract, authorized representatives of the City of Baltimore may examine, from time to time, the books, records and files of my firm to the extent that such material is relevant to a determination of whether my firm is complying with the MBE and WBE participation requirements of this contract.

I do solemnly declare and affirm under the penalty of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
Contractor Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Print Name and Title

Sworn and subscribed before me this \_\_\_\_ day  
of \_\_\_\_\_, in the year \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

<b>PART E: MBE/WBE PARTICIPATION WAIVER REQUEST FORM</b>
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Name of Bidder (Proposer) \_\_\_\_\_

Address \_\_\_\_\_

Contracting Agency \_\_\_\_\_

Contract (Project) Title \_\_\_\_\_

Contract Number: \_\_\_\_\_

Bid Due Date: \_\_\_\_\_

Goals on this contract: \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE

I have achieved \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE

I am requesting a waiver of \_\_\_\_\_ % MBE \_\_\_\_\_ % WBE

I have contacted MWBOO for assistance \_\_\_\_\_ Yes \_\_\_\_\_ No

Number of MBE firms contacted: \_\_\_\_\_ (Attach a list of names)

Number of WBE firms contacted: \_\_\_\_\_ (Attach a list of names)

Explain why waiver is being requested:

Attach documentation of your good faith efforts to secure, contact and negotiate with  
MBEs and WBEs, including:

- (1) the reasons your company is unable to secure sufficient MBE/WBE participation to meet the stated goals.
- (2) The efforts made by your company to select portions of the contract to be performed by MBEs and WBEs

- (3) For each MBE or WBE that placed a bid that you consider to be unacceptable, a statement that explains the basis for that conclusion.

\_\_\_\_\_  
Signature of Authorized Company Representative

\_\_\_\_\_  
Date

**PART F: SUBCONTRACTOR UTILIZATION FORM**

**THIS FORM MUST BE INCLUDED WITH REQUEST FOR FINAL PAYMENT.**

Prime Contractor's Name: \_\_\_\_\_

Contract Title: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Total Contract Dollar Amount: \_\_\_\_\_

**Provide the following information for EACH AND EVERY subcontractor, both MBE/WBE and NON-MBE/WBE used on this contract. (Duplicate form if necessary.)**

Name of Subcontractor	Goods or services provided on subcontract
Race/ethnicity AND sex of subcontractor's owner	Dollar amount of subcontract
Dollar amount paid to date	If amount paid to date is less than subcontract dollar amount, explain why.

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Race/ethnicity AND sex of subcontractor's owner	Dollar amount of subcontract
Dollar amount paid to date	If amount paid to date is less than subcontract dollar amount, explain why

\_\_\_\_\_  
Prime Contractor's signature

\_\_\_\_\_  
Date